

(10) A licensee shall make available to the government of any country (including the United States) upon request by that government, unenhanced data collected by its system concerning the territory under the jurisdiction of such government. The data shall be provided as soon as the licensee is able to distribute the data commercially or as soon as the licensee has processed them into a format that the licensee uses for its own purposes, whichever occurs sooner, on reasonable terms and conditions. However, no data shall be provided to the sensed state if such release is contrary to U.S. national security concerns, foreign policy or international obligations or is otherwise prohibited by law, e.g. where transactions with the sensed state are prohibited by the laws of the United States. The U.S. Government may require, as a specific license condition, coordination with NOAA prior to fulfilling specific sensed state requests for unenhanced data.

(11) A licensee shall inform the Assistant Administrator immediately of any operational deviation or proposed deviation of the system which would violate the conditions of the license. If advance notice is not possible because of an emergency posing an imminent and substantial threat to human life, property, the environment or the system itself, the licensee shall notify the Assistant Administrator of the deviation as soon as circumstances permit.

(12) A licensee shall dispose of any satellites operated by the licensee upon termination of operations under the license in a manner satisfactory to the President. The licensee shall obtain approval from the Assistant Administrator of all plans and procedures for the disposition of satellites as part of the application process.

(13) The licensee shall submit a Data Protection Plan to the Assistant Administrator for review and approval. The licensee's Data Protection Plan shall contain the process to protect data and information throughout the entire cycle of tasking, operations, processing, archiving and dissemination.

(i) If the operating license restricts the distribution of certain data and imagery to the U.S. Government or U.S.

Government-approved customers, including data whose public distribution is limited for 24 hours after collection, the Data Protection Plan should also provide for secure delivery of restricted data and imagery to U.S. Government-approved customer facilities.

(ii) Communications links that may require protection include, but are not limited to: Telemetry, tracking and commanding; narrowband and wideband data, including satellite platform and sensor data, imagery, and metadata; and terrestrial delivery methods including electronic and physical package delivery.

(iii) The licensee's Data Protection Plan must be approved by NOAA before the licensee's remote sensing space system may be launched. NOAA encourages the licensee's early submission and review of the Data Protection Plan to avoid any negative impacts on its system's development and launch schedule.

(iv) The Assistant Administrator may require the licensee to revise its Data Protection Plan if the system is altered from what was originally licensed.

(14) A license is not an asset of the licensee and shall not be mortgaged, sold or pledged as collateral.

(c) The Assistant Administrator may waive any of the conditions in §960.11(b) upon a showing of good cause and following consultations with the appropriate agencies.

§ 960.12 Data policy for remote sensing space systems.

(a) In accordance with the Act, if the U.S. Government has or will directly fund all or a substantial part of the development, fabrication, launch, or operation costs of a licensed system, the license shall require that all of the unenhanced data from the system be made available on a nondiscriminatory basis except on the basis of national security, foreign policy or international obligations.

(b) If the U.S. Government has not funded and will not fund, either directly or indirectly, any of the development, fabrication, launch, or operations costs of a licensed system, the licensee may provide access to its unenhanced data in accordance with

reasonable commercial terms and conditions, subject to the requirement of providing data to the government of any sensed state, pursuant to § 960.11(b)(10).

(c) If the U.S. Government has (either directly or indirectly) funded some of the development, fabrication, launch, or operations costs of a licensed system, the Assistant Administrator, in consultation with other appropriate U.S. agencies, shall, subject to national security concerns, determine whether the interest of the United States in promoting widespread availability of remote sensing data on reasonable cost terms and conditions requires that some or all of the unenhanced data from the system be made available on a nondiscriminatory basis in accordance with the Act. The license shall specify any data subject to this requirement. In making this determination, the Assistant Administrator may consider:

- (1) The extent and proportion of private and Federal funding of the system;
- (2) The extent of the governmental versus the commercial market for the unenhanced data;
- (3) The effect of a nondiscriminatory data access designation on the applicant's commercial activity;
- (4) The extent to which the applicant's proposed commercial data policies would encourage foreign operators to limit access, particularly for research and public benefit purposes; or
- (5) The extent to which the U.S. interest in promoting widespread data availability can be satisfied through license conditions that ensure access to the data for non-commercial scientific, educational, or other public benefit purposes.

Subpart C—Prohibitions

§ 960.13 Prohibitions.

It is unlawful for any person who is subject to the jurisdiction or control of the United States, directly or through any subsidiary or affiliate to:

(a) Operate a private remote sensing space system in such a manner as to jeopardize the national security or foreign policy and international obligations of the United States;

(b) Operate a private remote sensing space system without possession of a valid license issued under the Act and/or the regulations in this part;

(c) Operate a private remote sensing space system in violation of the terms and conditions of the license issued for such system under the Act and the regulations in this part;

(d) Violate any provision of the Act or the regulations in this part or any term, condition, or restriction of the license;

(e) Violate or fail to comply with any order, directive, or notice issued by the Secretary or his/her designee, pursuant to the Act and/or the regulations in this part, with regard to the operation of the licensed private remote sensing space system;

(f) Fail or refuse to provide to the Secretary or his/her designee in a timely manner, all reports and/or information required to be submitted to the Secretary under the Act or the regulations in this part;

(g) Fail to update in a timely manner, the information required to be submitted to the Secretary in the license application; or

(h) Interfere with the enforcement of this part by:

(1) Refusing to permit access by the Secretary or his/her designee to any facilities which comprise the remote sensing space system for the purposes of conducting any search or inspection in connection with the enforcement of the regulations in this part;

(2) Assaulting, resisting, opposing, impeding, intimidating, or interfering with any authorized officer in the conduct of any search or inspection performed under the regulations in this part;

(3) Submitting false information to the Secretary, his/her designee or any authorized officer; or

(4) Assaulting, resisting, opposing, impeding, intimidating, harassing, bribing, or interfering with any person authorized by the Secretary or his/her designee to implement the provisions of the regulations in this part.